



## Community Development Department

# BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA

May 1, 2014

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Tom Baker Meeting Room

4:00 p.m.

City-County Office Building

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### MINUTES

1. The minutes of the April 3, 2014 meeting of the Board of Adjustment will be considered for approval at the June 5, 2014 meeting.

### REQUEST

2. **Variance from Section 14-04-14(8) of the City Code of Ordinances (MA-Industrial)(Rear Yard)** – 2407 Railroad Avenue (West 31.78 feet of Lots 1-4 and all of Lot 6, and Auditor's Lot 2407 of Block 41 Governor Pierce Addition)

*Howard and Marsha Leier are requesting a variance to reduce the required rear yard setback along the south side of the property from ten (10) feet to zero (0) feet in order to construct a 6,000 square foot warehouse building.*

Board Action:      ☐approve      ☐continue      ☐table      ☐deny

3. **Variances from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard)** – 202 W Avenue F (Lots 13-16 and the east 10 feet of the vacated alley, Block 85, McKenzie and Coffins Addition)

*The City of Bismarck – Department of Public Works-Utility Operations is requesting a variance to reduce the required front yard setback along the south side of the property from twenty-five (25) feet to eight (8) feet in order to construct a 648 square foot equipment building for a Verizon cell phone tower.*

Board Action:      ☐approve      ☐continue      ☐table      ☐deny



4. **Variances from Section 14-04-16(4) of the City Code of Ordinances (P-Public)(Front Yard)** – 440 Ash Coulee Drive (Lot 3, Block 1, Replat of Millennium Addition)

*The City of Bismarck – Department of Public Works-Utility Operations is requesting a variance to reduce the required front yard setback along the south side of the property from twenty-five (25) feet to six (6) feet in order to construct a 648 square foot equipment building for a Verizon cell phone tower.*

Board Action:      ☐approve      ☐continue      ☐table      ☐deny

**OTHER BUSINESS**

5. **Other**

**ADJOURNMENT**

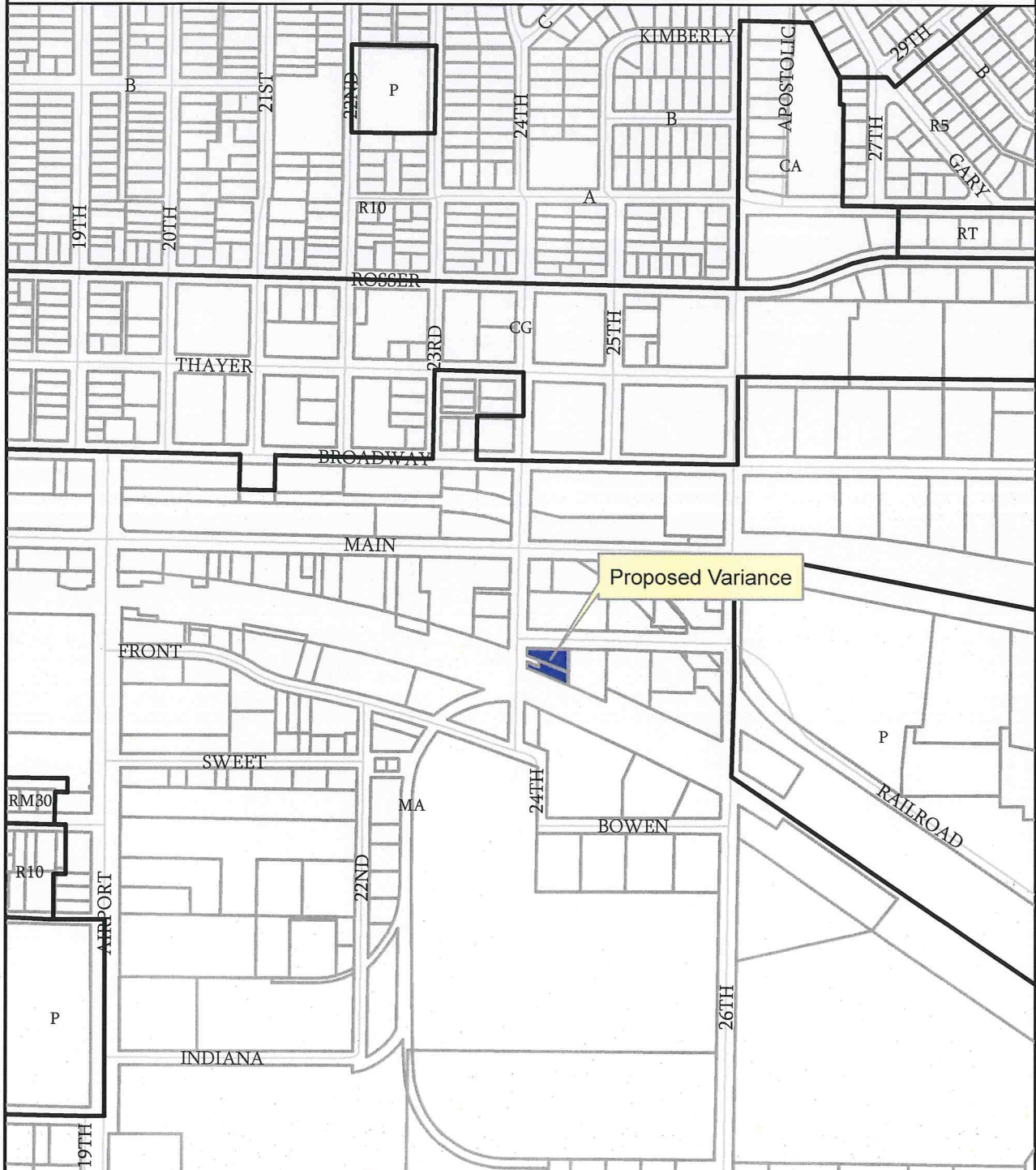
6. **Adjournment.** The next regular meeting date is scheduled for June 5, 2014.

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>	
<b>Title:</b> 2407 Railroad Avenue – Variance (Rear Yard Setback) (West 31.78 feet of Lots 1-4 and all of Lot 6, Block 41 and Auditor's Lot 2407 of Block 41, Governor Pierce Addition.)	
<b>Status:</b> Board of Adjustment	<b>Date:</b> May 1, 2014
<b>Owner(s):</b> Howard and Marsha Leier	<b>Engineer:</b> Ulteig Engineers
<b>Reason for Request:</b> Variance from 14-04-14(8) of the City Code of Ordinances (MA-Industrial)(Rear Yard) to reduce the required rear yard setback along the south side of the property from ten (10) feet to zero (0) feet in order to construct a 6,000 square foot warehouse building.	
<b>Location:</b> In east Bismarck, along the south side of Railroad Avenue and east side of South 24 <sup>th</sup> Street, north of the BNSF Railroad.	
<b>ADDITIONAL INFORMATION:</b>	
1. According to the site plan submitted with the application, the applicant intends to demolish the existing 4,023 square foot warehouse building constructed in 1950 and construct a 6,000 square foot warehouse building.	
<b>APPLICABLE PROVISION(S) OF ZONING ORDINANCE:</b>	
1. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."  2. Section 14-04-14(8) of the City Code of Ordinances (MA-Industrial)(Rear Yard) states, "A rear yard of at least ten (10) feet is required except when located adjacent to a public alley." According to the site plan submitted with the application the proposed building will be located at the rear property line.	
<b>FINDINGS:</b>	
1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the MA-Industrial zoning classification. 2. The hardship is not caused by the provisions of the Zoning Ordinance. 3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property. 4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant. 5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance	
<b>RECOMMENDATION:</b>	
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.	



**Proposed Variance**  
**West 31.78" of Lots 1-4, Block 41 and Lot 6, Block 41**  
**Governor Pierce Addition**



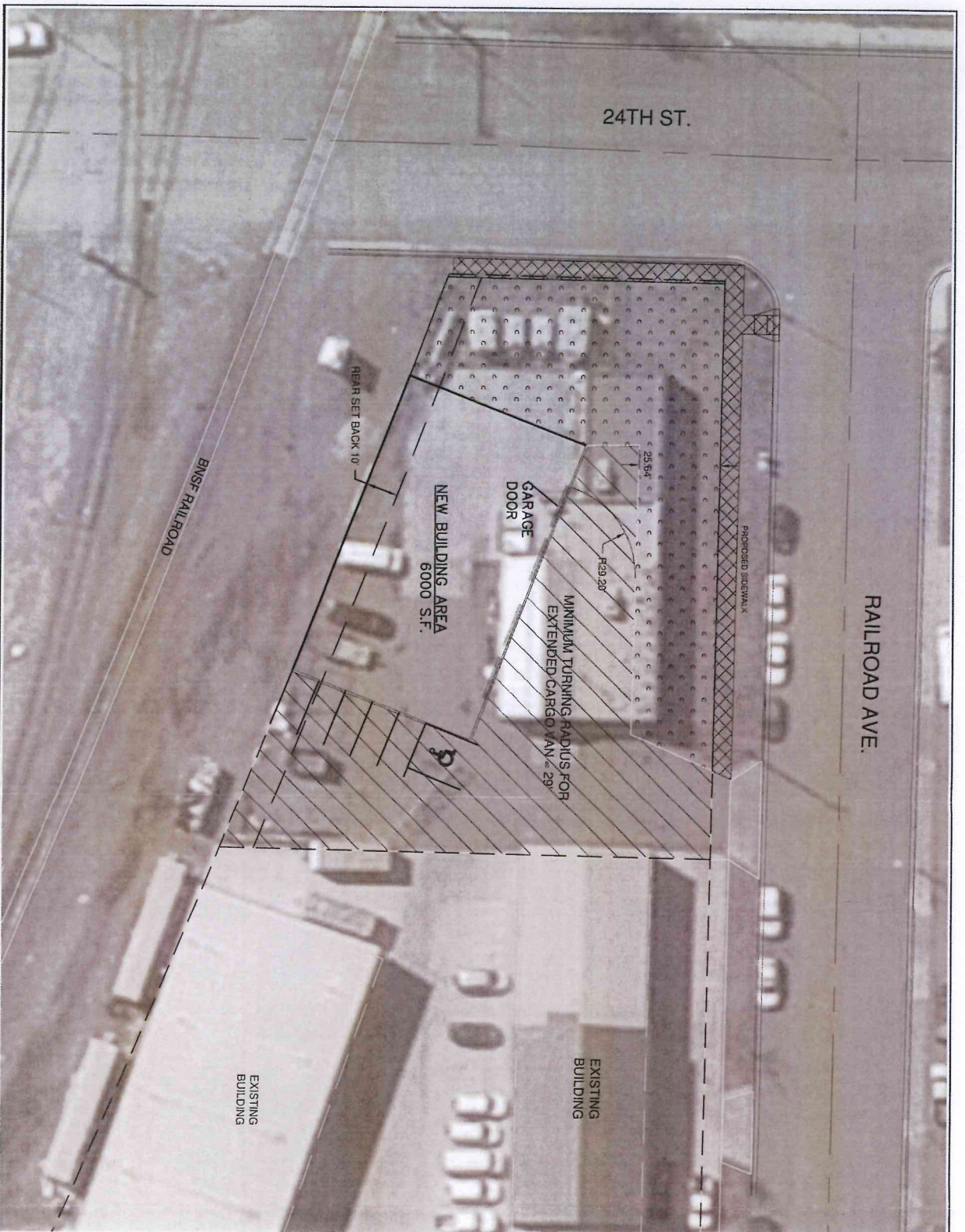
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Date: 4/15/2014(hlb)

Source: City of Bismarck

0 550 1,100  
Feet

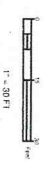






# LEGEND

- PROPERTY LINE
- PROPOSED BUILDING
- EXISTING BUILDING
- PROPOSED GRASS
- PROPOSED SIDEWALK
- PROPOSED PAVING



Brian Dwyer, P.E., PLS  
 3350 26th Avenue South  
 Fargo, North Dakota 58104  
 Phone: 701.282.8500 Fax: 701.288.8750  
 Email: brian@ulteig.com  
 Checked By: DBL  
 Approved By: DBL

HOWARD AND MARSHA RENTALS

EXHIBIT 4

Project Number: 130027  
 Drawing Title: 130027-1  
 Sheet: 1 of 1

© Project 2013 130027 Drawing Printing, Seal, Design, Proposed Date

APR 04 2014

Howard and Marsha Rentals (H&MR) is requesting a variance Title 14-0-14 Section 8, minimum rear yard setback of 10 feet. Howard and Marsha Rentals requests a variance so that they can construct a new building along their rear property line that borders the Burlington Northern Railroad.

The site is located on the southeast corner of 24<sup>th</sup> street and Railroad Ave at 2407 Railroad Avenue. More specifically, it is the west 31.78 feet of Lots 1-4, Lot 6 of Block 41 of the Governor Pierce Addition and on Auditors Lot 2407. See Exhibit 1.

The existing site is developed with a 4100sf building (build date unknown) that was originally built as a meat packing plant. Since it's initial construction, the building has had 5 additions. It is currently being used as warehouse storage space. The surrounding outside area is used for vehicle and equipment storage. Exhibit 2 shows the existing site layout.

H&MR proposes to remove the existing building and construct a new 6000sf warehouse with four garage door bays so that their vehicles and equipment can be stored in doors. The owner needs the bays a minimum of 60 feet deep and 25 feet wide. A proposed building elevation is shown in Exhibit 3. Exhibit 4 shows a preliminary layout of the site plan.

The need for a variance is as follows:

1. Due to the trapezoidal shape of H&MR's property, the building needs to be set as far south as possible so that H&MR's trucks have adequate room to make turning movements into the warehouse. The largest anticipated cargo vans H&MR could use is a Chevrolet extended wheel base cargo van (WB=155in). The minimum turning radius for this vehicles towing a utility trailer is approximately 29 ft.
2. Having the proposed building set at the south property line allows for more green space that fronts Railroad Ave. The green space offsets the additional paving that is required for parking which mitigates stormwater runoff. There is no storm drain system in Railroad Ave or 24<sup>th</sup> Street until the 26<sup>th</sup> Street or Main Street, respectively.

Ancillary benefits for the project is as follows:

1. The existing building was tested and is known to be constructed with asbestos materials. Removing the building and constructing a new one mean one less building with asbestos contamination which benefits the community.
2. In order to mitigate stormwater runoff, additional green space will be added along the west end of the property that fronts 24<sup>th</sup> Street. Thus removing an existing dirt parking area that currently is being used for trailer storage.

3. The site triangle for northbound traffic on 24<sup>th</sup> street and westbound Railroad Ave. would be increased by removing the existing building.
4. The sidewalk along Railroad Ave. will be extended to 24<sup>th</sup> Street on the north side of the property. New sidewalk will be constructed along 24<sup>th</sup> Street from the Burlington Northern Railroad right-of-way to Railroad Ave. An ADA ramp crossing will be provided at Railroad Ave crossing to the north.
5. The building location would be consistent with the existing building located on the property to the east.





## Community Development Department

April 21, 2014

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, May 1, 2014, at 4:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota, which may be of interest to you.

Howard and Marsha Leier are requesting a variance from Section 14-04-14(8) of the City Code of Ordinances (MA-Industrial)(Rear Yard) to reduce the required rear yard setback along the south side of the property from ten (10) feet to zero (0) feet in order to construct a 6,000 square foot warehouse building on the West 31.78 feet of Lots 1-4 and all of Lot 6, Block 41 and Auditor's Lot 2407 of Block 41, Governor Pierce Addition (2407 Railroad Avenue).

A site plan and map showing the location involved in the request are enclosed for your information.

At the hearing, the Board of Adjustment will provide an opportunity for all interested persons to be heard with respect to this item. Interested persons may also submit written comments regarding this request prior to the meeting to the Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701- 222-6450, or e-mail - cobplan@nd.gov.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department - Planning Division

JW/hlb

Enc: Location Map  
Site Plan



## BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

<b>BACKGROUND:</b>	
<b>Title:</b> 202 West Avenue F – Variance (Front Yard Setback) (Lots 13-16 and the East 10 feet of the vacated alley, Block 85, McKenzie and Coffins Addition)	
<b>Status:</b> Board of Adjustment	<b>Date:</b> May 1, 2014
<b>Owner(s):</b> Department of Public Works, Utility Operations	<b>Engineer:</b> None
<b>Reason for Request:</b> Variance from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard), to reduce the required front yard setback along the south side of the property from twenty-five (25) feet to eight (8) feet in order to construct a 648 square foot equipment building for a Verizon cell phone antenna located on the existing elevated water tower.	
<b>Location:</b> In central Bismarck, along the north side of West Avenue F and west side of North Mandan Street.	
<b>ADDITIONAL INFORMATION</b>	
<ol style="list-style-type: none"> <li>1. According to the site plan submitted with the application, it appears that the existing equipment shelter intended for storing equipment for the exiting water tower is located approximately eleven (11) feet from the front property line, fourteen (14) feet into the required twenty-five (25) foot setback.</li> </ol>	
<b>APPLICABLE PROVISION(S) OF ZONING ORDINANCE:</b>	
<ol style="list-style-type: none"> <li>1. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”</li> <li>2. Section 14-03-07(15)(a)(5)(Use Groups) of the City Code of Ordinances (Permitted Uses/Utility Service Group) states, “A use in the utility service group is one necessary for the safe or efficient operation of a gas, water, communication or electric utility or sewerage system for the benefit of the public, and is one in which the following factors are present:               <ol style="list-style-type: none"> <li>5) Any building associated with the use complies with all setback regulations for a principal building for the district in which it is located. Structures and equipment other than buildings, such as those found in an electric transformer station, must be setback no less than fifteen (15) feet from the front property line in any zoning district, no less than fifteen (15) feet from the side or rear lot line in or abutting any agricultural or residential district, and no less than ten (10) feet from the side or rear lot line in any zoning district.” According to the site plan submitted with the application, the proposed variance would be located eight (8) feet from the front property line, and would meet the required setbacks for the rear yard, side yard and additional front yard, adjacent to North Mandan Street.</li> </ol> </li> <li>3. Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard) states, “Each lot shall have a front yard of not less than twenty-five (25) feet in depth.” According to the site plan submitted with the application, the proposed variance would be located eight (8) feet from the front yard property line, seventeen (17) feet into the required twenty-five (25) foot front yard setback.</li> </ol>	



**FINDINGS:**

1. The need for a variance is based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R5-Residential zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance

**RECOMMENDATION:**

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

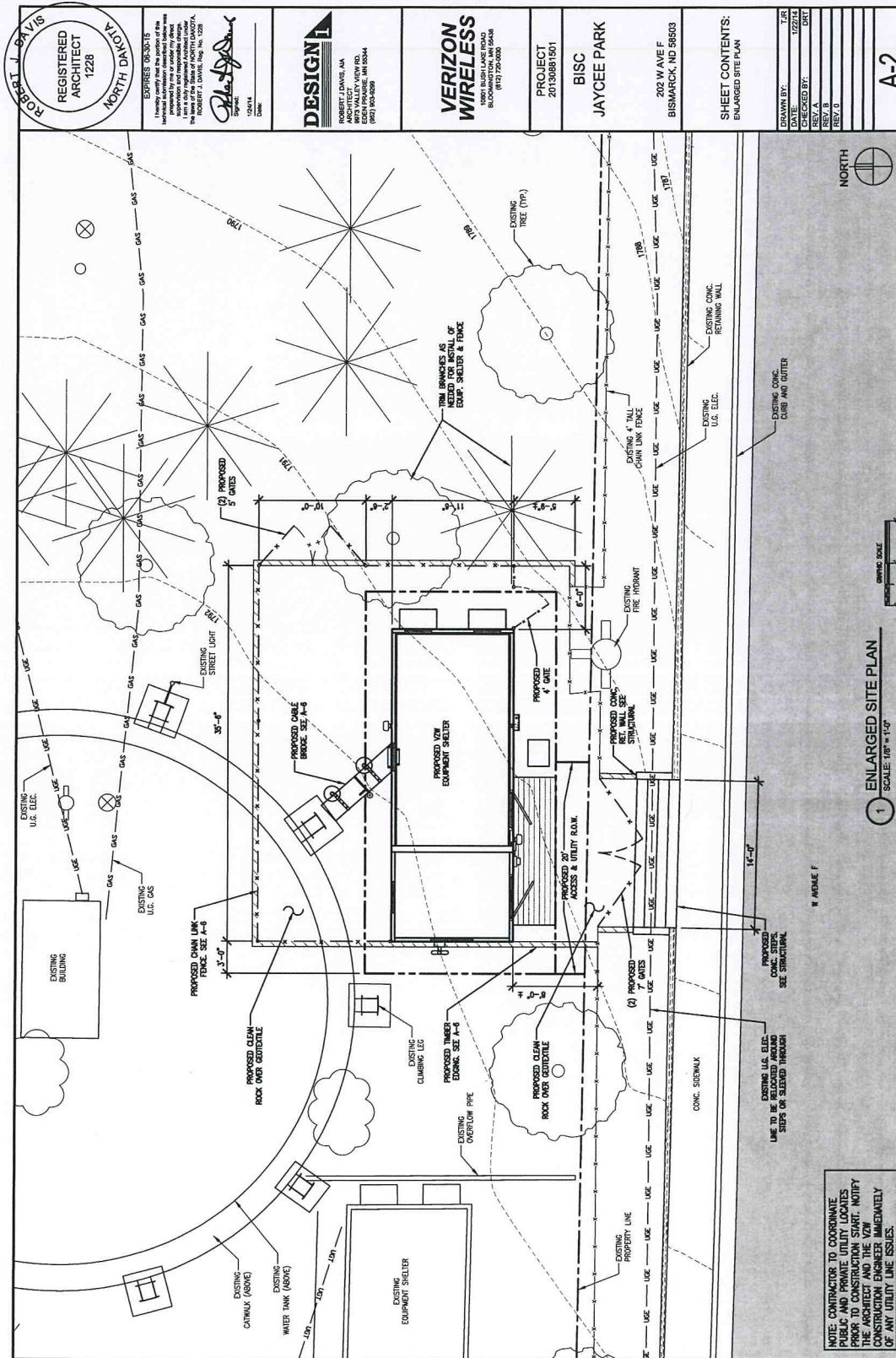


**Proposed Variance**  
**Lots 13-16 and the East 10 feet of the vacated alley,**  
**Block 85, McKenzie and Coffins Addition**



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Date: 4/11/2014(hlb)

Source: City of Bismarck



ROBERT J. DAVIS  
REGISTERED ARCHITECT  
1228  
NORTH DAVENPORT

EXPIRES 06/30/15

I hereby certify that the portion of the plan shown hereon was prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of North Carolina.

*Robert J. Davis*  
Signature  
1/20/14  
Date

DESIGN 1

ROBERT J. DAVIS, AIA  
8175 VALLEY VIEW RD.  
BISMARCK, ND 58503  
(701) 755-5005

VERIZON WIRELESS

1000 LINDEN LANE ROAD  
BISMARCK, ND 58503  
(701) 755-5005

PROJECT  
20150801501

BISC  
JAYCEE PARK

203 WAVE F  
BISMARCK, ND 58503

SHEET CONTENTS:  
ENLARGED SITE PLAN

DRAWN BY:	JK
CHECKED BY:	1/2/2014
REV. A	01/20/14
REV. B	
REV. C	

A-2

NOTE: CONTRACTOR TO COORDINATE  
PUBLIC AND PRIVATE UTILITY LOCATES  
PRIOR TO CONSTRUCTION START. NOTIFY  
THE ARCHITECT AND THE VZW  
CONSTRUCTING ENGINEER IMMEDIATELY  
OF ANY UTILITY LINE ISSUES.

1 ENLARGED SITE PLAN  
SCALE: 1/8" = 1'-0"





**EXCERPTS FROM BISMARCK ZONING ORDINANCE  
RELATING TO VARIANCES  
(City of Bismarck & ETA Requests)**

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

*Variance:* A device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to increase the financial return.

14-06-02. Powers and Duties.

\* \* \* \* \*

2. Variances. On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

No adjustment in the strict application of any provisions of this article shall be granted by the board of adjustment unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- b. That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.
- c. That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must reapply.





# CITY OF BISMARCK/ETA APPLICATION FOR APPROVAL OF A VARIANCE WRITTEN STATEMENT

1. Property Address or Legal Description: 202 West Avenue F
2. Location of Property: ☒ City of Bismarck ☐ Extraterritorial Area (ETA)
3. Type of Variance Requested: Reduced front yard set back
4. Applicable Zoning Ordinance Chapter/Section: Sec. 14-04-03(7)

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience. )

This City owned property contains an existing elevated water tower. This structure occupies a large portion of the west half of this parcel. The City and Verizon have an agreement to lease antenna space on this tower. Verizon needs to locate an equipment building near the base of the tower to support the antenna installation. The City and Verizon worked jointly to site the shelter at it's proposed location. It provides minimal disruption to the site and does not interfere with the City's access to the tower. There is no location outside of the 25 foot setback on the south side of the tower to locate this building. Application of the front yard setback would make it infeasible to construct this shelter because other locations on the lot that are close enough to the tower either have mature trees or underground utilities that make them infeasible for construction of this equipment shelter.

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

If the proposed shelter site can not be used the antenna location at this tower may not be feasible.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The entire site is fenced for security reasons and the proposed shelter is within that fenced area. The proposed shelter location is elevated several feet above the adjacent side walk by a retaining wall that is located along the south property line. The proposed shelter is set back as far as possible from the south property line given the constraints presented by the existing water tower.



## Community Development Department

April 21, 2014

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, May 1, 2014, at 4:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota, which may be of interest to you.

The City of Bismarck – Department of Public Works – Utility Operations is requesting a variance from Section 14-04-03(7) of the City Code of Ordinances (R5-Residential)(Front Yard), to reduce the required front yard setback along the south side of the property from twenty-five (25) feet to eight (8) feet in order to construct a 648 square foot equipment building for a Verizon cell phone tower, on Lots 13-16 and the East 10 feet of the vacated alley, Block 85, McKenzie and Coffins Addition (202 West Avenue F).

A site plan and map showing the location involved in the request are enclosed for your information.

At the hearing, the Board of Adjustment will provide an opportunity for all interested persons to be heard with respect to this item. Interested persons may also submit written comments regarding this request prior to the meeting to the Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701- 222-6450, or e-mail - cobplan@nd.gov.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department - Planning Division

JW/hlb

Enc: Location Map  
Site Plan







**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>	
<b>Title:</b> 440 Ash Coulee Drive – Variance (Front Yard Setback) (Lot 3, Block 1, Replat of Millennium Addition.)	
<b>Status:</b> Board of Adjustment	<b>Date:</b> May 1, 2014
<b>Owner(s):</b> Department of Public Works, Utility Operations	<b>Engineer:</b> None
<b>Reason for Request:</b> Variance from Section 14-04-16(4) of the City Code of Ordinances (P-Public)(Front Yard), to reduce the required front yard setback along the south side of the property from twenty-five (25) feet to six (6) feet in order to construct a 648 square foot equipment building for a Verizon cell phone antenna located on the existing elevated water tower.	
<b>Location:</b> In northwest Bismarck, along the north side of Ash Coulee Drive, west of North Washington Street.	
<b>APPLICABLE PROVISION(S) OF ZONING ORDINANCE:</b>	
<ol style="list-style-type: none"> <li>1. Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”</li> <li>2. Section 14-03-07(15)(a)(5)(Use Groups) of the City Code of Ordinances (Permitted Uses/Utility Service Group) states, “A use in the utility service group is one necessary for the safe or efficient operation of a gas, water, communication or electric utility or sewerage system for the benefit of the public, and is one in which the following factors are present:               <ol style="list-style-type: none"> <li>5) Any building associated with the use complies with all setback regulations for a principal building for the district in which it is located. Structures and equipment other than buildings, such as those found in an electric transformer station, must be setback no less than fifteen (15) feet from the front property line in any zoning district, no less than fifteen (15) feet from the side or rear lot line in or abutting any agricultural or residential district, and no less than ten (10) feet from the side or rear lot line in any zoning district.” According to the site plan submitted with the application, the proposed variance would be located six (6) feet from the front property line, and would meet the required setbacks for the rear yard and side yards.</li> </ol> </li> <li>3. Section 14-04-16(4) of the City Code of Ordinances (P-Public)(Front Yard) states, “Each lot shall have a front yard of not less than twenty-five (25) feet in depth.” According to the site plan submitted with the application, the proposed variance would be located six (6) feet from the front yard property line, nineteen (19) feet into the required twenty-five (25) foot front yard setback.</li> </ol>	
<b>FINDINGS:</b>	
<ol style="list-style-type: none"> <li>1. The need for a variance is based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the P-Public zoning classification.</li> <li>2. The hardship is not caused by the provisions of the Zoning Ordinance.</li> </ol>	

*(continued)*

3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance

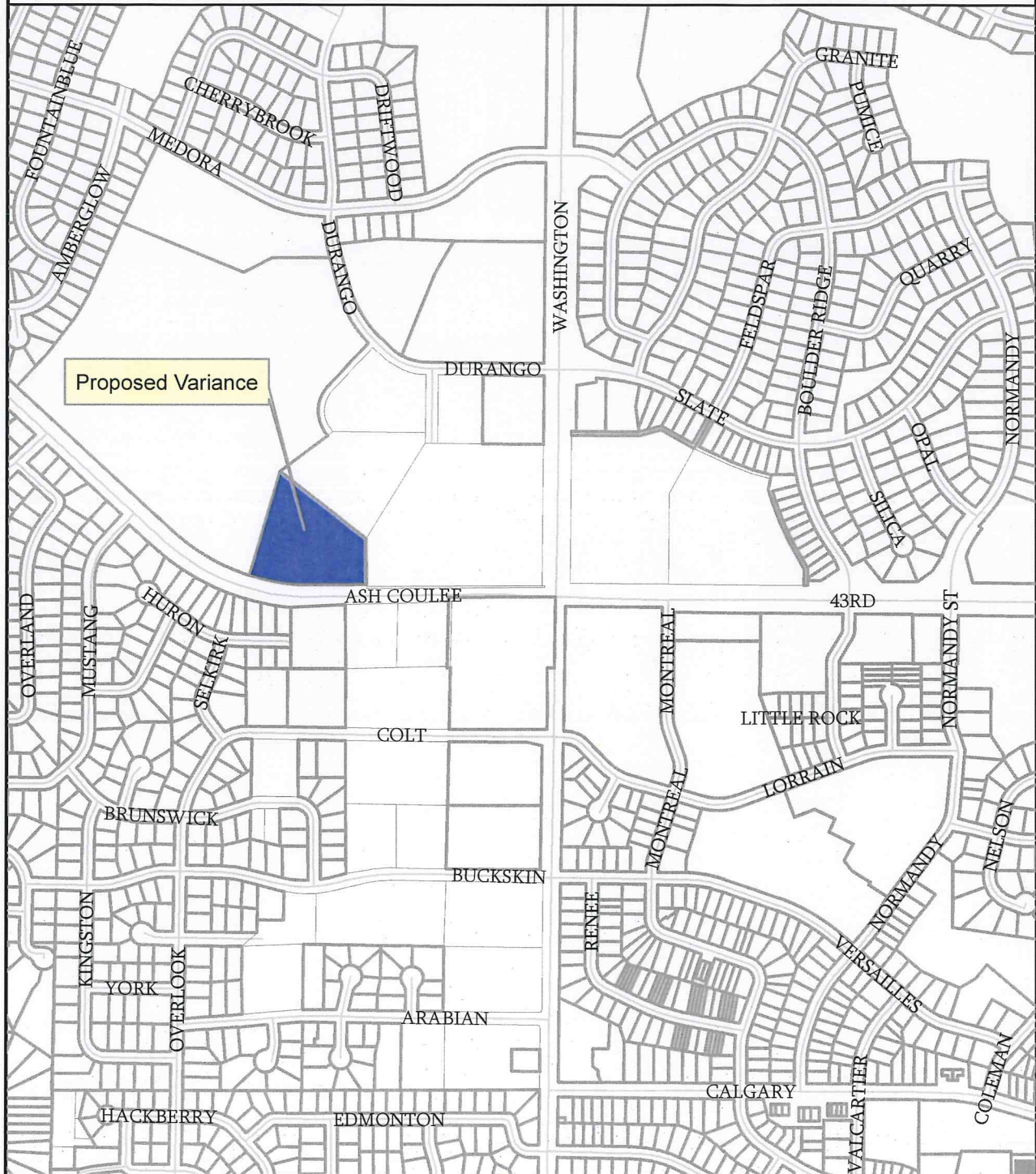
**RECOMMENDATION:**

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.



# Proposed Variance

## Lot 3, Block 1, Replat of Millennium Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Date: 4/11/2014(hlb)

Source: City of Bismarck

0 700 1,400 Feet





*Bismarck*

# CITY OF BISMARCK/ETA APPLICATION FOR APPROVAL OF A VARIANCE WRITTEN STATEMENT

1. Property Address or Legal Description: 440 Ash Coulee Drive

2. Location of Property: ☒ City of Bismarck ☐ Extraterritorial Area (ETA)

3. Type of Variance Requested: Reduced front yard set back

4. Applicable Zoning Ordinance Chapter/Section: Sec. 14-04-16(4)

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

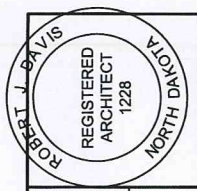
This City owned property contains an existing elevated water tower and is the proposed site for a future underground reservoir and potential additional elevated tower. The City and Verizon have an agreement to lease antenna space on this tower. Verizon needs to locate an equipment building near the base of the tower to support the antenna installation. The City and Verizon jointly evaluated the locations around the base of the tower and selected the proposed site as the least likely to interfere with any future construction work at the site. Application of the front yard setback would force this building to be built where it would likely interfere with the construction of future facilities at the site.

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

There are other locations where the equipment shelter could be located outside of the 25 foot setback, but they all present the potential for the shelter to interfere with future construction at this site. This would require the relocation of the shelter, something that could be avoided by planning for future use now.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The proposed shelter site is recommended by the City to have the minimum potential for impact on future construction at this site. The entire site is fenced for security reasons and the proposed shelter is within that fenced area. The proposed shelter location is 25 feet away from the existing walking path along Ash Coulee Drive.



I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer in the State of North Dakota.  
ROBERT J. DAVIS, Reg. No. 1228  
Date: 1/20/14

**DESIGN 1**  
ROBERT J. DAVIS, AIA  
1000 W. VALLEY VIEW RD.  
EDEN PRAIRIE, MN 55344  
(952) 905-6269

**VERIZON WIRELESS**  
1901 BUSH LAKE ROAD  
BLOOMINGTON, MN 55438  
(612) 720-0000

PROJECT  
20130881500

BISC  
HORIZON

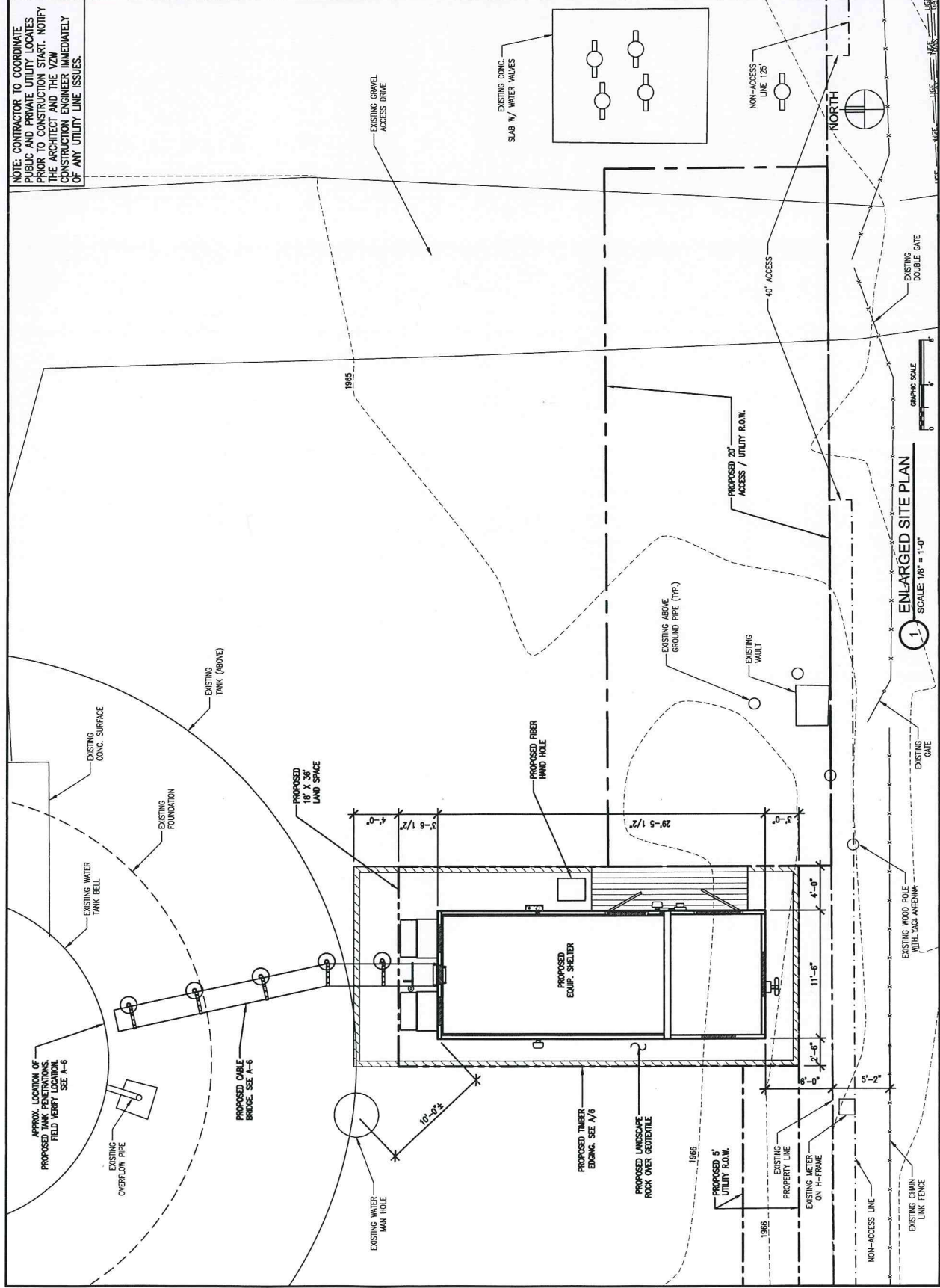
440 ASH COULEE DRIVE  
BISMARCK, ND 58503

SHEET CONTENTS:  
ENLARGED SITE PLAN

DRAWN BY: TJR  
DATE: 1/20/14  
CHECKED BY: CD  
REV. A  
REV. B  
REV. D

**A-2**

NOTE: CONTRACTOR TO COORDINATE  
PUBLIC AND PRIVATE UTILITY LOCATES  
PRIOR TO CONSTRUCTION START. NOTIFY  
THE ARCHITECT AND THE VZW  
CONSTRUCTION ENGINEER IMMEDIATELY  
OF ANY UTILITY LINE ISSUES.





I hereby certify that the person of this State of North Dakota is duly registered and qualified to practice architecture under the laws of this State and is duly registered and qualified to practice architecture under the laws of this State and is duly registered and qualified to practice architecture under the laws of this State.

ROBERT J. DAVIS, Reg. No. 1228

*Robert J. Davis*

DATE: 10/21/14

**DESIGN 1**

ROBERT J. DAVIS, AIA  
ARCHITECT  
1001 E. 1ST AVE. S.W.  
EDEN PRAIRIE, MN 55344  
(952) 933-9999

**VERIZON WIRELESS**

1001 E. 1ST AVE. S.W.  
BLOOMINGTON, MN 55408  
(612) 720-0000

PROJECT  
20130881500

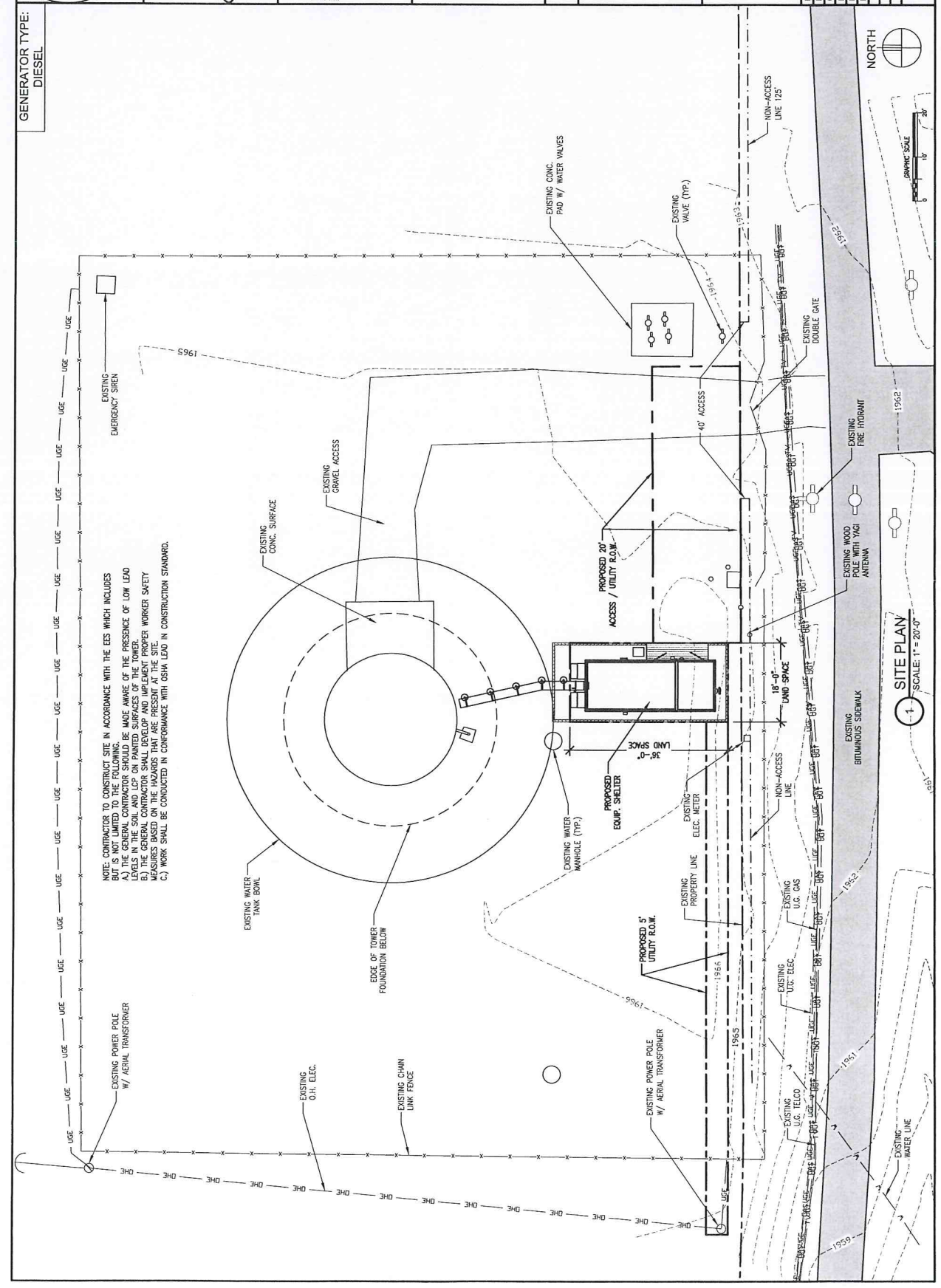
BISC  
HORIZON

440 ASH COULEE DRIVE  
BISMARCK, ND 58503

SHEET CONTENTS:  
SITE PLAN

DRAWN BY: TJR  
DATE: 10/21/14  
CHECKED BY: CD  
REV. A  
REV. B  
REV. C

A-1



NOTE: CONTRACTOR TO CONSTRUCT SITE IN ACCORDANCE WITH THE EES WHICH INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING:  
A) THE GENERAL CONTRACTOR SHOULD BE MADE AWARE OF THE PRESENCE OF LOW LEAD LEVELS IN THE SOIL AND LOP ON PAINTED SURFACES OF THE TOWER.  
B) THE GENERAL CONTRACTOR SHALL DEVELOP AND IMPLEMENT PROPER WORKER SAFETY AND HEALTH PROCEDURES TO PROTECT THE PUBLIC AND THE ENVIRONMENT.  
C) WORK SHALL BE CONDUCTED IN CONFORMANCE WITH OSHA LEAD IN CONSTRUCTION STANDARD.

1  
SITE PLAN  
SCALE: 1" = 20'-0"



**EXCERPTS FROM BISMARCK ZONING ORDINANCE  
RELATING TO VARIANCES  
(City of Bismarck & ETA Requests)**

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

*Variance:* A device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to increase the financial return.

14-06-02. Powers and Duties.

\* \* \* \* \*

2. Variances. On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

No adjustment in the strict application of any provisions of this article shall be granted by the board of adjustment unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this article, whether in violation of the provisions of the article, or not.
- b. That, for reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of said land or building, and the granting of the variances is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant.
- c. That the grant of the variance will be in harmony with the general purposes and intent of this article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- d. A variance granted under this chapter must be put into use within 24 months of the granting of the variance or it shall lapse and the landowner must reapply.

*Bismarck*

# CITY OF BISMARCK/ETA

## APPLICATION FOR APPROVAL OF A VARIANCE

### WRITTEN STATEMENT

1. Property Address or Legal Description: 440 Ash Coulee Drive

2. Location of Property: ☒ City of Bismarck ☐ Extraterritorial Area (ETA)

3. Type of Variance Requested: Reduced front yard set back

4. Applicable Zoning Ordinance Chapter/Section: Sec. 14-04-16(4)

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience. )

This City owned property contains an existing elevated water tower and is the proposed site for a future underground reservoir and potential additional elevated tower. The City and Verizon have an agreement to lease antenna space on this tower. Verizon needs to locate an equipment building near the base of the tower to support the antenna installation. The City and Verizon jointly evaluated the locations around the base of the tower and selected the proposed site as the least likely to interfere with any future construction work at the site. Application of the front yard setback would force this building to be built where it would likely interfere with the construction of future facilities at the site.

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

There are other locations where the equipment shelter could be located outside of the 25 foot setback, but they all present the potential for the shelter to interfere with future construction at this site. This would require the relocation of the shelter, something that could be avoided by planning for future use now.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The proposed shelter site is recommended by the City to have the minimum potential for impact on future construction at this site. The entire site is fenced for security reasons and the proposed shelter is within that fenced area. The proposed shelter location is 25 feet away from the existing walking path along Ash Coulee Drive.





## Community Development Department

April 21, 2014

Dear Property Owner:

Please be advised that the Bismarck Board of Adjustment will be conducting a public hearing on a variance request on Thursday, May 1, 2014, at 4:00 p.m. in the Tom Baker Meeting Room, City-County Office Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota, which may be of interest to you.

The City of Bismarck – Department of Public Works – Utility Operations is requesting a variance from Section 14-04-16(4) of the City Code of Ordinances (P-Public)(Front Yard), to reduce the required front yard setback along the south side of the property from twenty-five (25) feet to six (6) feet in order to construct a 648 square foot equipment building for a Verizon cell phone tower, on Lot 3, Block 1, Replat of Millennium Addition (440 Ash Coulee Drive).

A site plan and map showing the location involved in the request are enclosed for your information.

At the hearing, the Board of Adjustment will provide an opportunity for all interested persons to be heard with respect to this item. Interested persons may also submit written comments regarding this request prior to the meeting to the Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701- 222-6450, or e-mail - cobplan@nd.gov.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department - Planning Division

JW/hlb

Enc: Location Map  
Site Plan

